

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

SUSIE A. BARFIELD, et al.,

Plaintiffs,

v.

NORFOLK SOUTHERN CORPORATION,
JIMMY THORNTON, and MIKE FORD,

Defendants.

Civil Action No.
1:08-CV-00095-MBS

ANSWER OF DEFENDANT JIMMY THORNTON TO COMPLAINT

NOW COMES Defendant Jimmy Thornton and responds to the allegations of Plaintiffs' Complaint, captioned "Declaratory Judgment Action," as follows:

1. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1 and 2 of the Complaint.

2. In response to paragraphs 3 and 4, this Defendant admits he and Defendant Ford reside in South Carolina and were employed by Norfolk Southern Railway Company at all material times. This Defendant denies the remaining allegations of said paragraphs.

3. In response to paragraph 5, this Defendant admits jurisdiction and venue are proper in the U. S. District Court but denies the remaining allegations of paragraph 5.

4. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 6 through 11.

5. This Defendant denies the allegations contained in paragraph 12.

6. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 13 through 18.

7. This Defendant denies the allegations contained in paragraph 19.

8. This Defendant denies each and every other allegation of the Complaint not specifically admitted herein.

FIRST DEFENSE

The Complaint fails to state a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claims are barred by res judicata, collateral estoppel or former final adjudication.

THIRD DEFENSE

Plaintiffs' claims against this Defendant are preempted in whole or in part by federal law, rule or regulation.

FOURTH DEFENSE

Aiken County is an improper venue for this action.

FIFTH DEFENSE

Another action is pending between the same parties for the same claims so Plaintiffs' claims should be dismissed.

SIXTH DEFENSE

There is an insufficiency of service of process as to this Defendant.

WHEREFORE, having fully answered, Defendant Jimmy Thornton prays that the Complaint be dismissed, with all costs cast upon the plaintiffs.

This 28th day of January, 2008.

/s/ J. Arthur Davison
J. ARTHUR DAVISON
U.S. District Court No. 455
Attorney for Jimmy Thornton

OF COUNSEL:
FULCHER HAGLER LLP
Post Office Box 1477
Augusta, GA 30903-1477
adavison@fulcherlaw.com
(706) 724-0171 - phone
(706) 396-3619 - facsimile